

RECENT GUIDANCE ON TAX POLICIES FROM TAX AUTHORITIES

In this Spotlight, RSM Vietnam would like to update (1) Some notable Regulations in 2018 and Some guidance issued by the tax authorities, including (2) Guidance on the Electronic Invoice (e-Invoice); (3) Guidance on Social Insurance ("SI") for foreign employees



Some notable Regulations in 2018

No.	Regulations	Promulgation date	Effective date	Main issues	References
1	Law No. 04/2017/QH14	12 June 2017	01 January 2018	Law of assistance for small and medium-sized enterprises	Spotlight 08/2017
2	Decree 141/2017/ND-CP	07 December 2017	25 January 2018	Regulation of minimum regional wages applied to employees working under labors contracts	Spotlight 11/2017
3	Decree 146/2017/ND-CP	15 December 2017	01 February 2018	Amending and Supplementing of some articles of the Government's Decree 100/2016/ND-CP and Decree 12/2015/ND-CP on Corporate Income Tax and Value Added Tax	Spotlight 11/2017
4	Circular 25/2018/TT-BTC	16 March 2018	01 May 2018	Guidance on the Government's Decree 146/2017/ND-CP and amendment, supplementation of some articles of Circular 78/2014/TT-BTC and Circular No. 111/2013/TT-BTC on Corporate Income Tax, Personal Income Tax and Value Added Tax	Spotlight 05/2018

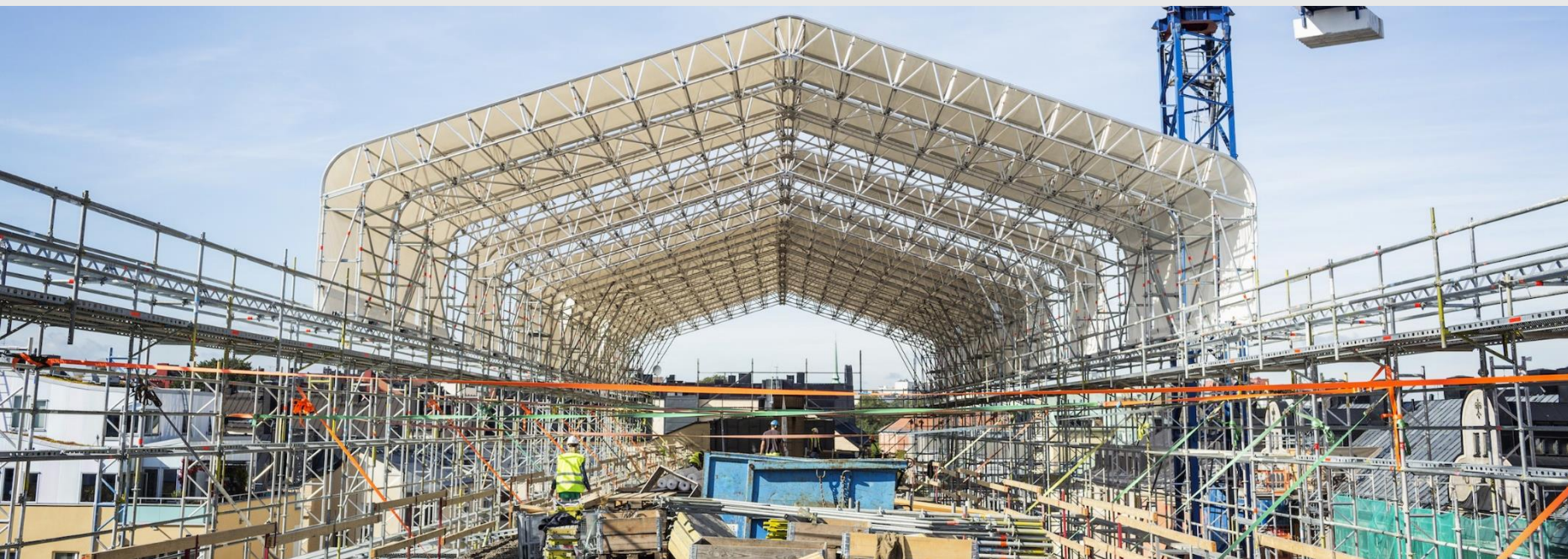
Some notable Regulations in 2018

No.	Regulations	Promulgation date	Effective date	Main issues	References
5	Decree 81/2018/ND-CP	22 May 2018	15 July 2018	Detailed regulations of Commercial Law regarding promotional activities	Spotlight 07/2018
6	Decree 76/2018/ND-CP	15 May 2018	01 July 2018	Detailed regulation and guidance on some articles of Law on Technology transfer	Spotlight 08/2018
7	Decision 27/2018/QD-TTg	06 July 2018	20 August 2018	Decision on Vietnamese standard industrial classification systems.	Spotlight 09/2018
8	Decree 119/2018/ND-CP	12 September 2018	01 November 2018	Regulation of e- Invoice for sale of goods and provision of services	Spotlight 10/2018
9	Law on Social Insurance No. 58/2014/QH13 (Detailed description at Clause 2, Article 2)	20 November 2014	01 December 2018	Regulation of compulsory social insurance for employees who are foreign nationals working in Vietnam	Spotlight 01/2019

Guidance on the Electronic Invoice

In our Spotlight October 2018, RSM Vietnam informed keynotes Decree 119/2018/NĐ-CP (“Decree 119”) on e-Invoice for selling goods and providing services, took effect from 01 November 2018. Accordingly, if the enterprise has announced the issuance of pre-printed, self-printed invoices or purchased invoices from the Tax Department before 01 November 2018, the enterprise will continue using them until the end of 31 October 2020. However, this Decree does not specify for the case where the enterprise needs to use the invoice after 01 November 2018. Specifically, the Official Letter 4311/TCT-CS issued by General Department of Taxation on 05 November 2018 practical guides for this point as follows:

In the period from 01 November 2018 to 31 October 2020, if enterprises who use up pre-printed invoices which were already announced to tax authority but wish to use pre-printed invoices in accordance with its actual situation, then enterprises can continue using the pre-printed invoices until the applied date of e-Invoice which is regulated in Decree 119. At the same time, enterprises continue implementing invoice procedures in accordance with Decree 51/2010/ND-CP dated 14 May 2010 and Decree 04/2014/ND-CP dated 17 January 2014 of the Government.



Guidance on List of goods attached to e-Invoice

On 28 November 2018, Hanoi Tax Department issued the Official Letter 78552/CT-TTHT providing guidance on issuing the list of provided goods attached e-Invoice to customers. In this official guidance, enterprises shall make a full list of provided goods and ensure that the information contained in e-Invoice can be accessible and usable in complete form when necessary according to Clause 3, Article 3, Circular 32/2011/TT-BTC. Enterprises shall not allowed to create e-Invoice without the list of provided goods and services or attach a list in papers for the e-Invoices.

When enterprises convert e-Invoice into paper invoice, if the list of provided goods and services is

longer than the number of lines of a paper invoice, the enterprises must make sure that such paper invoices must adapt all the following conditions:

The information of name, address, tax code of buyer and seller on each page must be same as the first page (as provided automatically by computer system);

Invoice must have a note which is written in Vietnamese without diacritics “**continued from the previous page** – X/Y”, (X is page number, Y is total pages).



Deduction of input VAT for invoice issued at the wrong time

On 19 November 2018, Hanoi Tax Department issued Official Letter 76600/CT-TTHT providing guidance on deduction of input VAT for invoice that issued at the wrong time. Specifically, enterprises allow to deduct the input VAT of those invoices if the below requirements are met:

Buying goods and services are actually occurred, which have:

- Legitimate VAT invoices of bought goods and services or VAT tax dossier on importation;

- Receipts for non-cash payments for the purchases (including imported goods) over 20 million VND;
- Other documents for non-cash payments such as offsetting, authorizing third party, ...

Supplier has declared and paid VAT for goods and services that are listed in these VAT invoices.



Guidance on Social Insurance (“SI”) for foreign employees

On 29 November 2018, Ho Chi Minh City SI issued the Official Letter 2446/BHXH-QLT providing temporary guidance on participating compulsory SI for foreign employees who work in Vietnam as follows:

1. Subjects of application:

Employees who are foreign nationals working in Vietnam shall be required to participate in the compulsory SI contribution (hereinafter referred to as “foreign employees”) if they have:

- Work permits, practice certificates, practice licenses issued in Vietnam; and
- Indefinite-term labor contracts or Fixed-term labor contracts, which has validation for at least one year with employers in Vietnam.

Employees are **not subject** to compulsory SI participation in one of the following cases:

- Employees being internally transferred within an enterprise that has established a commercial presence in Vietnam for positions including managers, chief executive officers, experts and technicians. These employees should be employed **at least 12 months** before transferring temporary to the workplace that has established a commercial presence in Vietnam; or

- Employees reach retirement age according to Clause 1, Article 187 of Labor Code.

Foreign employees signing multiple contracts with different employers shall only participate compulsory SI for the first contract; employers shall pay into the labor accident and occupational disease fund in accordance to each contract signed.



Guidance on Social Insurance (“SI”) for foreign employees

2. Rate of SI contribution

Rate of SI contribution changed over time are illustrated as below:

From 01 December 2018 to 31 December 2021				
The responsibility of pay SI for Foreign employees	Rate of SI contribution			
	Sickness & maternity fund	Labor accident & occupational disease fund	Retirement & survivorship allowance fund	Total
Employers	3%	0,5%	0%	3,5%
Foreign employees		0%	0%	0%
After 01 January 2022				
Employers	3%	0,5%	14%	17,5%
Foreign employees		0%	8%	8%

Salaries for determining SI payable shall include basic salary, allowance, and other additional payments.

Guidance on Social Insurance (“SI”) for foreign employees

3. Benefits of SI

From 01 December 2018 to 31 December 2021, when participating SI, foreign employees shall be entitled to schemes for sickness, maternity, labor accident and occupational disease insurance.

From 01 January 2022, in addition to above schemes, foreign employees and their relatives could receive Retirement and survivorship allowance, and one-time SI allowances.

These benefits are regulated specifically in Decree 143/2018/ND-CP of Government.

Moreover, foreign employees who receive monthly SI pensions or allowances but are no longer resident in Vietnam may conduct to:

- Authorize other persons to receive SI pensions or allowances; or
- Receive one-time SI allowances under current regulations.



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